

Remarks/Arguments

Status of the application:

The Office Action dated September 16, 2008, contained a restriction requirement under 35 U.S.C. 121 and 372 providing that two groups of claims –

Group I , claims 1-15 and 17-32, and

Group II, claim 16 only

were drawn to different inventions.

The Office action also contended that the claims are directed to more than one species and required an election of species.

Restriction Requirement Traverse

In response to the Restriction Requirement, Applicant provisionally elects Group I, claims 1-15 and 17-32, with traverse. Applicant reserves the right to pursue Group II, claim 16, in a divisional application should the restriction requirement not be lifted.

Applicants respectfully submit that the inventions of groups I and II relate to a single general inventive concept under PCT Rule 13.1 because claim 16 required that its method be performed with a downhole tool equipped with a “*sensor in accordance with any preceding claim*”. Claim 16 therefore imported the limitations of claim 1 and therefore under PCT Rule 13.2, included the same special technical features that define a contribution over the prior art.

In the event that the restriction requirement is lifted, applicant will amend claim 16 so that it refers to claim1 rather than to any preceding claim.

Election requirement and traverse

The office action contends that no claim is generic and identifies two species by reference to passages in the description. However, the passages referred to are not true alternatives. The passage on page 6 is part of the description of Fig 2 and the passage on page 7 lines 13 to 16 mentions possible omission of membrane 34 of Fig 2. However, the embodiment of Fig 2 and a variant without the membrane 34 would both be able to come within the scope of claim 1, because page 7 lines 13 to 16 teach the presence of an immobilized reaction solution contained by the porous member. Applicants

believe that the examiner is seeking to distinguish, as separate species, an embodiment such as illustrated in Fig 2 in which a porous member contains both the said precursor and the said reaction solution and an embodiment such as illustrated by Fig 4 in which the porous member contains the precursor but the reaction solution is provided by an external solution.

Claims 1 and 17 are the two independent method claims in this application. The portions of these claims which differ are:

Claim 1:... which contains a precursor and a reaction solution which together with the hydrogen sulphide or thiols create in which said precursor and said reaction solution are dispersed.

Claim 17: which contains a precursor which together with the hydrogen sulphide or thiols and a reaction solution create..... in which said precursor is dispersed.

The remaining words in both claims are the same.

Applicants contend that claim 17 is generic. Both claims 1 and 17 require an electrically conductive porous member in which the precursor is dispersed. Both claims require interaction of precursor and reaction solution. The generic claim 17 is silent as to whether the reaction solution is or is not also contained in the porous member, whereas claim 1 requires that it is contained therein. (The alternative that the reaction solution is derived from external fluid is brought in by dependent claim 18). Thus claim 1 is equivalent in scope to a sub-claim reading:

An electrochemical sensor according to claim 17 wherein said reaction solution is also dispersed in said porous member.

For these reasons, applicants traverse the requirement to elect a species.

However, in the event that the requirement is maintained, applicants elect a species with the reaction solution dispersed in the porous member as illustrated by page 6 and Fig 2. Claims covering this are claims 1 to 15, 17 and 25 to 32.

Conclusion

In view of the foregoing, Applicants believe all claims now pending in this Application relate to a single invention and request that examination on the merits now proceeds.

Should the Examiner have any questions or comments, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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Date: October 13, 2008